IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

WP(C).No. 36363 of 2007(D)

OS.755/2004 of III ADDL.SUB COURT, ERNAKULAM

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PETITIONERS:

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1. B.GOPAN , S/O. T.G.BALAKRISHNAN PILLAI
   AGED 45 YEARS, USHAVILAS, VAZHIKULANGARA
   NORTH PARAVUR.

2. B.SASIKUMAR,S/O.T.G.BALAKRISHNAN PILLAI
   AGED 49 YEARS,KRISHNARPANAM, KOLAZHY, THRISSUR.

BY ADV. SRI.C.AJITH KUMAR

RESPONDENTS:

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1. N.S.S..KARAYOGAM, NO. 943,KIZHAKKEPRAM
   REPRESENTED BY ITS PRESIDENT,
   M.K.CHANDRASEKHARA MENON.

2. V.PRASANNA,D/O. RAJAMMA ,
   USHAVILASAM, KOTTUVALLY VILLAGE,
   PARAVUR TALUK.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J.

W.P.(C). NO. 36363 OF 2007

Dated this the 10th day of December, 2007

J U D G M E N T

This writ petition is filed seeking to set aside the order of the Munsiff Court, North Paravur in EP 231/2007 in OS 755/2004. By the said order the court below has ordered attachment of salary of the judgment debtors at the rate of Rs.2,000/- per month. Learned counsel for the petitioners strongly contend before me that the court did not consider the objection filed by them. The objection was filed to enable them to pay the decree debts in instalments of Rs.500/- per month. Under Order XX Rule 11 of the Civil Procedure Code, after the decree, instalment facility can be extended only with the decree holder's consent. It is not available in this case. Learned counsel for petitioners had produced before me the salary certificate of the first writ petitioner. His basic salary is Rs.9,390/-. One thousand is to be deducted and one third of the remaining is attachable. If the petitioner had taken other loans it will not stand in the way of the attachment of salary. Therefore the prayer that the amount is not attachable cannot be sustained. The other writ petitioner is also

having equally the same amount of salary.

2. In order to avoid embarrassment of attachment, I intended to give an opportunity to the petitioners to make the payment directly into the court or to the decree holder at the rate of Rs.2,000/- each per month.

Therefore the writ petition is disposed of directing the writ petitioners to make the payment at the rate of Rs.2,000/- each per month till the decree debt is satisfied and in case, there is default of payment of any month, the decree holder is at liberty to request the court for effecting attachment of salary. The first payment is to be made on 10.1.2008. Till the default is committed the court below is directed not to effect the attachment of salary.

M.N.KRISHNAN, JUDGE

vps